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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/604,123	06/26/2003	Peter J. Kumpon	47320.0129	1122
20874	7590	06/15/2005		
WALL MARJAMA & BILINSKI 101 SOUTH SALINA STREET SUITE 400 SYRACUSE, NY 13202			EXAMINER CHEN, TIANJIE	
			ART UNIT	PAPER NUMBER
			2652	

DATE MAILED: 06/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/604,123

Applicant(s)

KUMPON ET AL.

Examiner

Tianjie Chen

Art Unit

2652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-93 is/are pending in the application.
- 4a) Of the above claim(s) 33-93 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 7-21 and 23-29 is/are rejected.
- 7) ☒ Claim(s) 5, 6, 22 and 30-32 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 20031201.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Non-Final Rejection

Election/Restrictions

1. Applicant's election of claims 1-32 (in the previous Office action, there is a typo; wherein "32" was mistakenly written as "33") in the reply filed on 01/31/2005 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 2, 4, 7-21, and 23-27 are rejected under 35 U.S.C. 102(b) as being anticipated by Dimitri (US 5,818,723).

Claim 1. Dimitri shows a magazine-based data cartridge library in Fig. 1 including: a frame 120, a shelf system (the box including a plurality of 22,; column 3, lines 51-52), operatively attached to the frame, for supporting at least two data cartridge magazines 30 (Figs. 1 and 2; column 3, line 62)) and including at least one shelf 22; a drive 56 (Column 4, lines 18-19) that is operatively attached to the frame; a cartridge transport device 54 (Fig. 3; column 4, lines 51-54), operatively attached to the frame, for moving a data cartridge between a data cartridge magazine and the drive, a magazine picker 70 for displacing a data cartridge magazine towards and away

Art Unit: 2652

from the shelf; and an elevator 118 and etc. for moving the magazine picker, wherein the magazine picker includes, a magazine support 74 and 76; and means 110 (Fig. 1; column 5, lines 58-59) for transporting a data cartridge magazine between the magazine support and a shelf of the shelf system, wherein during transporting of a data cartridge magazine between the magazine support and a shelf the shelf system, the magazine support remains in substantially the same position (Column 5, lines 1-27).

Claim 2: Dimitri shows that the cartridge transport device includes the elevator 118 etc.

Claim 4: Dimitri shows that the magazine support includes a pair of support rails 78 for engaging a data cartridge magazine.

Claim 7: Dimitri shows the means for transporting includes: means 74+76 (Fig. 3) for engaging a data cartridge magazine, and means 98 for moving the means for engaging (Column 5, lines 1-9).

Claim 8: Dimitri shows that the means for engaging includes: a member 74 with a surface for contacting a data cartridge magazine, an actuator 98 (Column 5, lines 21-27) for selectively providing a motive force for making the member so that the surface moves into and out of position to contact a data cartridge magazine; and a linkage on 98 (Fig. 4) that constrains the member to rotate about an axis.

Claim 9: Dimitri shows the actuator includes a rotational actuator 98 that provides a rotational motive force.

Claim 10: Dimitri shows that the rotational actuator includes an electric motor.

Claim 11: Dimitri shows that the means for engaging includes: a member with a first surface (the lower surface on 74) for contacting a data cartridge magazine and a

Art Unit: 2652

second surface (the upper surface on 76) for contacting a data cartridge magazine that is separated from the first surface; an actuator 98 for selectively providing a motive force for moving the member so that the first and second surfaces move into and out of position to contact a data cartridge magazine, and a linkage on 96 that constrains the member to rotate about an axis.

Claim 12: Dimitri shows that the member extends from a first terminal end (the tip of 74) to a second terminal end (the leftmost point on 96 on left side); the axis is located between the first and second terminal ends; and the first and second surfaces are located between the axis and the first terminal end.

Claim 13, Dimitri shows that the member extends from a first terminal end to a second terminal end; the axis is located between the first and second terminal ends; the first surface is located between the axis and the first terminal end; and the second surface is located between the axis and the second terminal end.

Claim 14, Dimitri shows a third surface (the lower surface of upper lip) for contacting a data cartridge magazine and a fourth surface (the upper surface of the lower lip) for contacting a data cartridge magazine that is separate from the third surface.

Claim 15, Dimitri shows the second surface includes a fifth surface on the front of the lip for contacting a data cartridge magazine and a sixth surface at the rear of the lip for contacting a data cartridge magazine that is separate from the fifth surface.

Claims 16 and 17: Dimitri shows that the actuator includes a rotational actuator 98 that provides a rotational motive force and the rotational actuator includes an electric motor.

Claim 18: Dimitri shows that the means for engaging includes: a member with a surface on 74 for contacting a data cartridge magazine, an actuator 70 for selectively providing a motive force for moving the member so that the surface moves into and out of position to contact a data cartridge magazine, and a linkage 94+96 that constrains the member to move linearly.

Claim 19: A magazine-based data cartridge library, as claimed in claim 18, wherein: the actuator includes a linear actuator 70 that provide a linear motive force.

Claim 20: Dimitri shows that the linear actuator includes a solenoid 82 (Column 5, line 10).

Claim 21: Dimitri shows that the means for engaging includes a belt; and the means for moving includes an electric motor 98 for rotating the belt.

Claim 23: Dimitri shows that the means for moving includes an electrical motor 98.

Claim 24: Dimitri shows the means for moving includes a solenoid 82 (Column5, line 10).

Claim 25: Dimitri shows that the means for moving includes a lead screw 118.

Claim 26: Dimitri shows that the means for moving includes a belt-and-pulley system 110 etc. (Figs. 3 and 4).

Claim 27: Dimitri shows that the means for moving includes means 88 and 86 for linearly translating the means for engaging.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claim 28 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dimitri in view of Baca (US 5,638,347).

Claims 28 and 29: Dimitri does not show that the means for transporting includes means for sensing when the means for engaging has engaged a data cartridge magazine; and the means for sensing includes an optical sensor.

Baca shows the means for transporting includes means for sensing when the means for identifying successful picker inserts, successful picker picks, which should including sensing; and the means for sensing includes an optical sensor (Column 6, lines 44-49).

It would have been obvious at the time the invention was made to one of ordinary skill in the art to add the sensor for making the means transporting working properly; which would including determining that it has engaged a data cartridge magazine.

4. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dimitri in view of Fitzgerald et al(US 5,943,305).

Dimitri does not show an entry/exit port for conveying a data cartridge magazine between an environment that is exterior to a space defined by the frame and

Art Unit: 2652

an entry/exit space that is interior to the space defined by the frame, wherein the entry/exit space is accessible to the magazine transport device.

Fitzgerald et al shows a device in Fig. 1 including an entry/exit port for conveying a data cartridge magazine between an environment that is exterior to a space defined by the frame and an entry/exit space that is interior to the space defined by the frame.

It would have been obvious at the time the invention was made to one of ordinary skill in the art to add the entry/exit port in Dimitri's device. The rationale is as follows: Fitzgerald et al teaches that having a removable magazine would enable the operator to readily interchange optical disks within the apparatus as a group without disassembly (Column 1, lines 59-62). One of ordinary skill in the art would have been motivated to add the port for wherein the entry/exit port for exchanging the disks. Thus added port would be accessible to the magazine transport device.

Allowable Subject Matter

5. Claims 5, 6, 22, 30-32 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:

- Claims 5 and 6, as the closest reference, Dimitri (US 5,818,723) shows a library having a frame, a shelf system for supporting at least two data cartridge magazines, shelves; a drive; a cartridge transport device, an elevator, a magazine picker, wherein the magazine picker includes, a magazine support

Art Unit: 2652

having a pair of rails; and means for transporting a data cartridge magazine between the magazine support and a shelf of the shelf system; **but fails to show** the means for transporting is located in a space between the pair of support rails; and the pair of support rails are adapted to engage a pair of data cartridge magazine rails.

- Claim 22, as the closest reference, Dimitri (US 5,818,723) shows a library having a belt in means for engaging; **but fails to show** that the belt includes a surface for engaging a surface of a data cartridge magazine.
- Claim 30-32, as the closest reference, Dimitri (US 5,818,723) shows a library having means for engaging, **but fails to show** that the means for engaging includes a force limiter that is located between the actuator and the member.
- Applicant asserts: this of a magazine-based library is able to load the drives faster than a cartridge-based library and in many cases, considerably faster (Specification, p. 9).

Conclusion

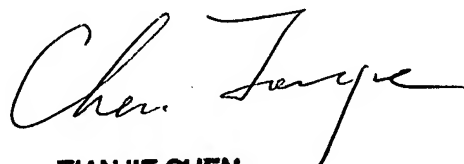
6. The prior art made of record innPTO-892 Form and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tianjie Chen whose telephone number is 571-272-7570. The examiner can normally be reached on 8:00-4:30, Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hoa Nguyen can be reached on 571-272-7579. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2652

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Chen. Tianjie", with a stylized flourish at the end.

TIANJIE CHEN
PRIMARY EXAMINER